

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHAEL GAINES,

Plaintiff,

Case No. 16-cv-12793

v.

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

SOCIAL SECURITY, COMMISSIONER OF,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
COMMISSIONER'S MOTION FOR SUMMARY JUDGMENT, DENYING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT, AND AFFIRMING THE DECISION OF THE
COMMISSIONER**

On November 13, 2013, Michael Gaines applied for disability insurance benefits under the Social Security Act. A Social Security Administration Commissioner denied his claim as did an Administrative Law Judge. The Appeals Council denied review. On July 29, 2016, Gaines filed a complaint seeking judicial review of the Commissioner's final decision. ECF No. 1. The case was referred to Magistrate Judge Patricia T. Morris. ECF No. 4. On November 7, 2016, Gaines filed a motion for summary judgment. On February 6, 2017, the Commissioner filed a motion for summary judgment. ECF No. 18. Several months later, Judge Morris issued a report recommending that the Commissioner's motion for summary judgment be granted and Gaines's motion for summary judgment be denied. ECF No. 20. Specifically, Judge Morris found that the ALJ properly evaluated the opinion of a non-treating psychologist and properly evaluated Gaines's credibility.

Although the Magistrate Judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report,

neither Plaintiff nor Defendant filed any objections. The election not to file objections to the Magistrate Judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 20, is **ADOPTED**.

It is further **ORDERED** that Defendant Commissioner's motion for summary judgment, ECF No. 18, is **GRANTED**.

It is further **ORDERED** that Plaintiff Gaines's motion for summary judgment, ECF No. 15, is **DENIED**.

It is further **ORDERED** that the Commissioner of Social Security's decision is **AFFIRMED**.

Dated: May 16, 2017

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on May 16, 2017.

s/Kelly Winslow
KELLY WINSLOW, Case Manager